

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 379 because it conflicts with SEA 234-2006 without properly recognizing the existence of SEA 234-2006, has had Engrossed Senate Bill 379 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 379 be corrected as follows:

- 1 Page 8, delete lines 6 through 42, begin a new paragraph and insert:
2 "SECTION 8. IC 4-22-2-28.1, AS AMENDED BY SEA 234-2006,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2006]: Sec. 28.1. (a) This section applies to the following:
5 (1) A rule for which the notice required by section 23 of this
6 chapter **or by IC 13-14-9-3** is published by an agency ~~after June~~
7 ~~30, 2005.~~ **or by any of the boards (as defined in**
8 **IC 13-11-2-18).**
9 (2) A rule for which:
10 (A) the notice required by IC 13-14-9-3; or
11 (B) an appropriate later notice for circumstances described in
12 subsection (g);
13 is published by the department of environmental management after
14 June 30, 2006.
15 (b) As used in this section, "coordinator" refers to the small business
16 regulatory coordinator assigned to a rule by an agency under subsection
17 (e).
18 (c) As used in this section, "director" refers to the director or other
19 administrative head of an agency.
20 (d) As used in this section, "small business" means any person, firm,
21 corporation, limited liability company, partnership, or association that:
22 (1) is actively engaged in business in Indiana and maintains its
23 principal place of business in Indiana;
24 (2) is independently owned and operated;

(3) employs not more than one hundred (100) full-time employees;
 and
 (4) has gross annual receipts of not more than five million dollars
 (\$5,000,000).

(e) For each ~~(1)~~ rulemaking action and ~~(2)~~ rule finally adopted as a result of a rulemaking action by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f):

(1) in the case of a proposed rule, the ~~agency's~~ notice of intent to adopt the rule **published** under section 23 of this chapter; **or**
 (2) **in the case of a rule proposed by the department of environmental management or any of the boards (as defined in IC 13-11-2-18), the notice published under IC 13-14-9-3 or the findings published under IC 13-14-9-8(b)(1), whichever applies;**

must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule. Subject to subsection (f), in the case of a rule finally adopted, ~~by the agency;~~ the final rule, as published in the Indiana Register, ~~and the Indiana Administrative Code;~~ must include the name, address, telephone number, and electronic mail address of the coordinator.

(f) This subsection applies to a rule adopted by the department of environmental management or any of the boards (as defined in IC 13-11-2-18) under IC 13-14-9. Subject to subsection (g), the department shall include in the notice provided under IC 13-14-9-3 **or in the findings published under IC 13-14-9-8(b)(1), whichever applies,** and in the publication of the final rule in the Indiana Register: ~~and the Indiana Administrative Code:~~

(1) a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3;

(2) the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2;

(3) if applicable, a statement of:

(A) the resources available to small businesses through the small business stationary source technical assistance program established under IC 13-28-5; and

(B) the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); and

(4) the information required by subsection (e).

The coordinator assigned to the rule under subsection (e) shall work with the ombudsman described in subdivision (2) and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under subsection (h) and IC 13-28-3. If applicable, the coordinator assigned to the rule under subsection (e) shall work with the ombudsman referred to in subdivision (3)(B) to coordinate the provision of services required under subsection (h) and IC 13-28-5.

(g) If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.

(h) The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:

(1) Any requirements imposed by the rule, including any reporting, record keeping, or accounting requirements.

(2) How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.

(3) Any penalties, sanctions, or fines imposed for noncompliance with the rule.

(4) Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted

under IC 13-14-9, the coordinator assigned to the rule may refer a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).

(i) The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Any guidelines or informational pamphlets issued under this subsection shall be made available:

(1) for public inspection and copying at the offices of the agency under IC 5-14-3; and

(2) electronically through electronic gateway access.

(j) The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:

(1) not later than ten (10) days after the date on which the rule is ~~file stamped by the secretary of state submitted to the publisher~~ under section 35 of this chapter; and

(2) before July 15 of each year during which the rule remains in effect.

The coordinator and the director shall keep confidential any information concerning a small business to the extent that the information is exempt from public disclosure under IC 5-14-3-4.

(k) Not later than November 1 of each year, the director shall:

(1) compile the records received from all of the agency's coordinators under subsection (j);

(2) prepare a report that sets forth:

(A) the number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved;

(B) the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;

- 1 (C) the total number of staff serving as coordinators under this
 - 2 section during the most recent state fiscal year;
 - 3 (D) the agency's costs in complying with this section during the
 - 4 most recent state fiscal year; and
 - 5 (E) the projected budget required by the agency to comply with
 - 6 this section during the current state fiscal year; and
 - 7 (3) deliver the report to the legislative council in an electronic
 - 8 format under IC 5-14-6 and to the Indiana economic development
 - 9 corporation established by IC 5-28-3."
 - 10 Delete pages 9 through 10.
 - 11 Page 11, delete lines 1 through 11.
- (Reference is to ESB 379 as printed February 14, 2006.)

Senator GARTON, Chairperson

Senator R YOUNG, R.M.M.

Senator FORD